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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 20

[GN Docket No. 13-111, DA 20-791, FRS 16977]

Promoting Technological Solutions to Combat Contraband Wireless Device Use in Correctional Facilities

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this document, the Wireless Telecommunications Bureau (Bureau) seeks to refresh the record on the proposals and questions raised in the Further Notice of Proposed Rulemaking (Further Notice) in GN Docket No. 13-111, FCC 17-25, released on March 24, 2017, and invite additional comment on the successes and ongoing challenges of currently employed solutions and those under further review and development.

DATES: Interested parties may file comments on or before **[INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER]**; and reply comments on or before **[INSERT DATE 45 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: You may submit comments, identified by GN Docket No. 13-111, by any of the following methods:

- **Electronic Filers:** Comments may be filed electronically using the Internet by accessing the ECFS: <http://www.fcc.gov/ecfs/>.
- **Paper Filers:** Parties who choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.

Filings can be sent by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the

Secretary, Federal Communications Commission.

- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701.
- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street, SW, Washington, DC 20554.
- Effective March 19, 2020, and until further notice, the Commission no longer accepts any hand or messenger delivered filings. This is a temporary measure taken to help protect the health and safety of individuals, and to mitigate the transmission of COVID-19. See FCC Announces Closure of FCC Headquarters Open Window and Change in Hand-Delivery Policy, Public Notice, DA 20-304 (March 19, 2020), <https://www.fcc.gov/document/fcc-closes-headquarters-open-window-and-changes-hand-delivery-policy>.

People with Disabilities. To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer and Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (tty).

FOR FURTHER INFORMATION CONTACT: Melissa Conway, Melissa.Conway@fcc.gov, of the Wireless Telecommunications Bureau, Mobility Division, (202) 418-2887.

SUPPLEMENTARY INFORMATION: This is a summary of the Bureau's Public Notice in Docket No. 13-111, DA 20-791, released July 28, 2020. The complete text of the document is available for viewing via the Commission's ECFS website by entering the docket number, GN Docket No. 13-111.

Ex Parte Rules

This proceeding shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules. Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the

presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must: (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made; and (2) summarize all data presented and arguments made during the presentation.

If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda, or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with section 1.1206(b) of the Commission's rules. In proceedings governed by section 1.49(f) of the rules or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (e.g., .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

In the document, the Bureau seeks to refresh the record in this proceeding that addresses the serious threat of contraband wireless device use by inmates in correctional facilities. Developing a more comprehensive and current record will facilitate an evaluation of potential next steps necessary to eliminate this challenging public safety problem. Through its March 2017 Further Notice (82 FR 22780) and Report and Order (R&O) , the Commission streamlined the authorization process for contraband wireless device interdiction systems in correctional facilities by eliminating certain filing requirements and providing for immediate approval of lease applications filed to operate these systems. In the Further Notice, the Commission sought further comment on a process for wireless providers to disable wireless devices identified as contraband, on whether to require advanced notice of wireless provider network

changes to solutions providers to maintain system effectiveness, and on the viability of other technological solutions.

Since the release of the R&O and Further Notice, the Commission has conducted substantial outreach and encouraged stakeholder cooperation in deploying effective technologies. Evolving wireless technologies and wireless provider networks have necessitated adjustments in the deployment and maintenance of contraband interdiction systems. Stakeholders, including wireless providers, contraband device interdiction solutions providers, and corrections officials, have gained meaningful experience using various tools to combat contraband wireless devices. The Bureau's goal is to leverage these experiences to better facilitate the nationwide deployment of legal and cost-effective contraband interdiction systems. The Bureau encourages commenters to be as specific as possible when addressing the below issues.

First, the Bureau seeks to refresh the record on all aspects of the proposed Commission process that would require the disabling of contraband wireless devices by wireless providers following identification. As contraband wireless device use in correctional facilities continues to be a threat to public safety, despite continued voluntary efforts to mitigate the problem, would adoption of a rule-based disabling approach be a more effective, wide-scale solution? The Bureau seeks additional comment on the specifics of the proposed disabling rules. CTIA, the Wireless Association (CTIA), recently reported to the Commission that it has been working successfully, along with its members companies, on processes in various states using a model court order, and that wireless providers are in fact ceasing service to contraband devices pursuant to court orders they have obtained. Therefore, the Bureau also seeks additional comment on specific successes and failures associated with obtaining and executing court orders in the various states where this approach has been pursued. How many contraband devices have been disabled pursuant to court orders, and in what jurisdictions? Has the process been overly burdensome or costly and are there jurisdictions where court orders cannot be obtained and why not? CTIA also claims that the approach of disabling contraband devices added to the Stolen Phone Database

is working. The Bureau invites comment from all stakeholders on the effectiveness of using this database to disable contraband wireless devices and render them unusable across multiple wireless provider networks. The Bureau would welcome comment on specific advantages or disadvantages associated with this approach.

Second, the Bureau seeks to refresh the record on requiring notification to solutions providers of wireless provider system technical changes, recognizing that lack of timely notice of wireless provider system upgrades can render contraband interdiction systems ineffective. What is the current state of communications between wireless providers seeking to upgrade networks and solutions providers that must react to network changes? Have increased coordination efforts substantially improved the ability of solutions providers to ensure effective contraband interdiction system deployments, or is Commission action appropriate to facilitate enhanced communications? CTIA indicates it has developed a Managed Access System Stakeholder Checklist that emphasizes the need for vendors, corrections officials, and wireless providers to establish points of contact to enhance stakeholder communication and coordination on the deployment of future spectrum bands. Are stakeholders using the Checklist and taking into consideration, in particular, the technical recommendations? If not, why not? Are financial considerations a factor? Are there additional issues that should be added to the Checklist, and is there any action the Commission could take to facilitate its implementation? Would further standardization of best practices involving notification of network changes be beneficial? If so, what type of notice, and what additional best practices should be included? Relatedly, the Bureau also seeks comment on the ability of wireless providers to configure their networks and make system changes to avoid the need for major contraband interdiction system upgrades. If these network configurations are achievable, the Bureau seeks comment on whether wireless providers would, as a matter of best practices, implement them in areas proximate to correctional facilities or, alternatively, compensate solutions providers to make contraband interdiction systems upgrades required to adjust to wireless provider network technical changes that significantly impact contraband interdiction system effectiveness. The Bureau understands

that this approach has been adopted internationally and seeks specific comment on whether it has been successful.

Third, the Bureau invites further comment on other technological solutions addressed in the Further Notice, including quiet zones, network-based solutions, and beacon technology. The Bureau seeks to refresh the record on any developments for these and any other technological solutions, and the regulatory steps the Commission should take to facilitate the development and deployment of these new technologies. The Bureau requests focused comment on the state of carrier network solutions, or the concept of “geofencing” in the contraband wireless device context. The Bureau seeks to update the record on whether there have been technical developments making such an approach a feasible solution to identifying the location of, and ultimately terminating, contraband wireless devices. The Bureau seeks comment on whether the Commission should require wireless providers to not exceed a specific signal strength in the proximity of a correctional facility, or to minimize or remove service-quality signals entirely in the proximity of a facility. For example, should the Commission require a wireless provider to treat the walls of a correctional facility (or some subset of such facilities) the same as the edge of the license areas? The Bureau also seeks to refresh the record on what network modifications, if any, would be required to track and identify contraband devices on carrier networks to a sufficient degree of location accuracy, and at what cost. Should the Commission require wireless carriers to use existing and future network capabilities to accomplish detection and disabling of contraband devices? What advances in location technology could enable carriers to accurately locate contraband devices in correctional facilities for disabling? Are there technical, privacy, legal, or other considerations that are relevant to this approach?

Fourth, the Bureau notes that the evolution of wireless technology from 2G to widespread 3G/4G and ultimately 5G deployments requires continued managed access system upgrades to maintain long-term effectiveness. The Bureau understands that many managed access system solutions depend largely on forcing contraband devices from 3G/4G to 2G services, which carriers are rapidly phasing out, and

current network security issues can prevent these systems from capturing calls made from 5G phones. In April 2019, CTIA and the Association of State Correctional Administrators submitted a Task Force Status Report that described next generation managed access system solutions as “MAS Evolved.” The report recommended that wireless providers establish roaming agreements with solutions providers for network security reasons to enable newer generation services on managed access system networks. The Bureau understands that a key feature of a MAS Evolved solution involves use of roaming agreements allowing a MAS Evolved system to block calls by preventing authentication on the network, and enabling newer generation services on managed access system networks where calls are captured without forcing the devices down to 2G.

The Bureau seeks comment on how this approach can be more effective, less complex, easier to manage, and less costly to implement when compared to a more traditional managed access system deployment. If full roaming partners, can solutions providers leverage their small cell deployments to create a virtual fence and enhance the ability to identify and block contraband phones? Would this approach lead to a greater diversity in types and areas of contraband interdiction system deployments? What steps can the Commission take to facilitate the widespread implementation of MAS Evolved as a solution? The Bureau seeks comment on how the wireless providers are working with vendors to promote MAS Evolved and how the Commission can support these efforts. Would a standardized template roaming agreement improve the effectiveness of MAS deployments and encourage expansion? The Bureau seeks focused comment on the status of the development and execution of roaming agreements in order to promote MAS Evolved solutions. The Bureau requests that commenters be specific regarding how many states and how many correctional facilities have been involved in testing or deploying MAS Evolved solutions. In addition to the execution of roaming agreements, are there other approaches that could be developed by the wireless providers and/or the vendors to add features or services and help defray the cost of MAS deployments and operations? Are there specific approaches or other examples of which the Commission should be aware? How can the Commission further support

these efforts? Are there specific steps the Commission can take to help coordinate stakeholder efforts?

Are there other voluntary actions that stakeholders have taken in order to promote MAS Evolved?

Fifth, given the development of newer technologies and applications for addressing contraband device use, the Bureau seeks comment on whether the leasing rules adopted in 2017 remain effective in facilitating spectrum use agreements between wireless providers and solutions providers. Should the Commission revise these rules or implement further streamlining initiatives in its secondary markets processes? The Bureau recognizes that, for budgetary reasons, some correctional facilities are seeking more mobile solutions with less reliance on permanent fixed deployments. Should the Commission amend its rules or update its licensing policies/databases to better accommodate these newer solutions and if so, how?

Sixth, the Bureau notes that the Commission has not pursued regulatory action on jamming technologies by state or local entities given the prohibition against willful or malicious interference in section 333 of the Communications Act, as amended. The Bureau recognizes that limited testing of jamming technologies has occurred with federal oversight, consistent with the statute, and the Commission continues to support efforts to obtain more data on this type of solution when tested in authorized environments. As a substantial number of corrections officials continue to seek a “jamming” solution or its equivalent, the Bureau does seek comment, however, on the potential for wireless providers to voluntarily deploy base stations in the vicinity of a correctional facility that would, in effect, result in the blocking of their own signals in all or part of a correctional facility, thereby not resulting in a violation of section 333. Would such a solution be feasible in certain areas of the country and at what cost? Wireless providers presumably have all relevant information about the radiofrequency signal environment surrounding a correctional facility they serve. Accordingly, would this type of wireless provider-driven approach alleviate concerns regarding difficulties in coordinating communications with third party solutions providers and the associated need for contraband interdiction system upgrades?

FEDERAL COMMUNICATIONS COMMISSION.

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